IN THE HIGH COURT OF JUDICATURE AT BOMBAY

O.O.C.J.

SUMMONS FOR JUDGMENT NO.1033 OF 1999

IN

SUM. SUIT NO. 1592 OF 1999

Reliance Industries Ltd., .. Plaintiffs.

vs.

Enkay Texofood Industries Ltd. .. Defendants.

Mr. Chirag Balsara i/by A.S. Dayal & Asso.

for plaintiffs.

Mr. N.C. Parekh for defendants.

CORAM : S.U. KAMDAR, J.

DATE : 19th SEPTEMBER, 2005.

P.C.:

. The present suit is filed for the goods sold and delivered and the claim is for Rs. 6,48,50,839.00 and after giving credit to the credit note, the amount due and payable by the defendants to the plaintiffs is Rs. 6,63,46,728.00 The defendants are served. The company was under BIFR. However, the BIFR reference has been dismissed by an order dated 10.6.2005. In that view of the matter, the protection under section 22 of SICA does not

survive any further. There is no affidavit in reply filed. However,the learned counsel for the defendants raises the sole contention that the suit is not maintainable as a summary suit because the amount is claimed as an aggregate amount under various bills. Once the contract in respect of each of the amount, the court fee is required to be paid accordingly. The learned counsel for the plaintiff agrees to pay court fee on the basis of separate invoices and undertakes to pay the same within a period of two weeks from today the necessary deficit court fee amount. There is no other defence raised. However, the learned counsel for the plaintiff has contended that on reading of para 7 of the plaint it is clear that the suit is on account. I do not find so because the suit is in respect of each of the invoices which are set out in Exhibit A to the plaint and in respect of discount the necessary credit notes are issued. However, the defendants dispute the said quantum of discount granted and the amount set out. But since the defendants have filed no affidavit in reply, it is not possible to accept the aforesaid contention. In that view of the matter, the summons for judgment is made absolute. Suit is decreed. Suit as well as summons for judgment both stand disposed of accordingly. No order as to costs.